IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 1263 of 2007(A)

PETITIONER:

M.S. SUDEVAN, S/O.MANJIPARAMBIL
SEKHARAN, MANJIPARAMBIL HOUSE,
VATANAPPALLY, THRITHALLUR P.O.

BY ADV. SRI.K.S.BHARATHAN

RESPONDENTS:

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1. JT.SECRETARY TO GOVERNMENT LABOUR AND REHABILITATION (S) DEPARTMENT, (APPELLATE AUTHORITY UNDER THE KERALA TODDY WORKERS WELFARE FUND ACT), SECRETARIAT, THIRUVANANTHAPURAM.

2. THE WELFARE FUND INSPECTOR, KERALA TODDY WORKERS WELFARE FUND BOARD, THRISSUR.

3. THE ASST.EXCISE COMMISSIONSER, THRISSUR.

4. THE DISTRICT COLLECTOR, THRISSUR.

5. THE DY.TAHSILDAR (RR.), THRISSUR.

6. VILLAGE OFFIER, VADANAPPALLY.

R1, R3 TO R6 BY G.P.SRI.I.V.PRAMOD.

R2 BY S.C.SRI.K.HARILAL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.1263 of 2007

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Dated this the 30th day of January, 2007.

JUDGMENT

Petitioner has a final determination order against him under the Kerala Toddy Workers Welfare Fund Act. He filed an appeal against that determination order. A final order was passed on the appeal also. He challenged the determination order and the appellate order before this Court contending that there were two conflicting reports regarding the activities in the toddy shop in question and that he did not have opportunity to peruse the said reports nor their contents. Accordingly, this Court issued Ext.P1 judgment directing that the petitioner will be permitted by the first respondent to peruse the records and further directed that, if necessary, fresh orders shall be passed by the first respondent. Petitioner thereafter made Ext.P3 representation taking the stand that there are two conflicting reports. Accordingly, the first respondent issued Ext.P4 communication directing that if the authority has issued two

contradictory reports, the reasons for the same has to be ascertained from that authority.

2. All that this Court directed in Ext.P1 judgment was to let the petitioner peruse the records to ascertain and satisfy for himself as to whether there are two reports and if he comes to see that there are two reports, it would have been open to him to urge before the first respondent that there are conflicting reports and if there are conflicting reports, the first respondent was obliged under Ext.P1 judgment to pass a fresh order. All these means only that, if the petitioner had shown two reports being available in the records, the first respondent could have considered that. If there was only one report, the first respondent could have taken into consideration the fact that there was only one report. Not only that, the first respondent was obliged to pass fresh order only if it was found necessary. However, a communication in the nature of Ext.P4 does not appear to satisfy the situational requirement.

3. In the aforesaid circumstances, it is directed that the petitioner will appear before the first respondent on such day as may be fixed by the first respondent on production of a copy of this judgment and he will be permitted to peruse the records. Thereafter, the petitioner will be given an opportunity to point out before the first respondent as to whether there are two reports and the course of action to be taken. It will be well within the wisdom of the first respondent to pass orders as is required on the facts and circumstances. Let the needful be done within a period of two months from the date of receipt of a copy of this judgment. In the meanwhile, recovery steps will stand deferred if the petitioner deposits Rs.15,000/- within a period of two weeks, without fail.

Writ Petition is disposed of in the above terms.

Thottathil B.Radhakrishnan,
Judge.

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